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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
NEW YORK DIVISION

David McGlynn,

Plaintiff,

v.

Magzter, Inc.,

Defendant.

Case No.: 1:22-cv-04707-AT

**STIPULATED MOTION TO SET  
ASIDE CLERK'S ENTRY OF  
DEFAULT**

Plaintiff David McGlynn ("McGlynn") and Defendant Magzter, Inc. ("Magzter") stipulate that good cause exists to set aside the Clerk's entry of default, Dkt. No. 14, against Magzter and jointly move to set aside the Clerk's entry of default under Rule 55(c) of the Federal Rules of Civil Procedure. In support of the Motion, McGlynn and Magzter specifically stipulate to following:

1. Despite McGlynn's efforts to serve process, Magzter did not receive a copy of the Complaint or Summons.
2. Magzter was not aware of this action or the Clerk's entry of default until August 18, 2022.
3. Magzter may file an answer or other responsive pleading to the Complaint, Dkt. No. 1, on or before September 19, 2022.
4. Allowing Magzter to file an answer or other responsive pleading to the Complaint on or before September 19, 2022, will give Magzter the opportunity to investigate the allegations in the Complaint and evaluate the merits of McGlynn's claims.
5. Allowing Magzter to file an answer or other responsive pleading to the Complaint on or before September 19, 2022, will also give both parties an opportunity to resolve this dispute.

WHEREFORE, McGlynn and Magzter respectfully request that the Court set aside the Clerk's entry of default against Magzter and allow Magzter to file an answer or other responsive pleading to the Complaint on or before September 19, 2022.

August 24, 2022

GRANTED. By **September 19, 2022**, Defendant shall respond to the complaint. By **October 17, 2022**, the parties shall file either a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form on the docket, or a joint letter advising the Court that the parties do not consent to proceed before a Magistrate Judge, but without disclosing the identity of the party or parties who do not consent, in accordance with the Court's June 22, 2022 order. ECF No.

8. By **October 17, 2022**, the parties shall file their joint letter and proposed case management plan in accordance with the Court's June 22, 2022 order. ECF No. 9.

SO ORDERED.

Dated: August 30, 2022  
New York, New York

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ANALISA TORRES  
United States District Judge